

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 Worthy Lee Curtis,

4 Plaintiff

5 v.

6 United States of America,

7 Defendant

Case No. 2:19-cv-02192-JAD-BNW

**Order Adopting Report and  
Recommendation and Dismissing Case**

[ECF No. 4]

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9 On February 11, 2020, the magistrate judge recommended that I dismiss this case  
10 because plaintiff failed to file an application to proceed *in forma pauperis* or pay the filing fee by  
11 the January 31, 2020, deadline he was given.<sup>1</sup> Plaintiff was warned that his failure to comply  
12 with that order could result in the dismissal of his case.<sup>2</sup> The deadline for objections to that  
13 recommendation passed without objection or any request to extend the deadline to file one.  
14 “[N]o review is required of a magistrate judge’s report and recommendation unless objections  
15 are filed.”<sup>3</sup>

16 A court may dismiss an action based on a party’s failure to prosecute his case or obey a  
17 court order.<sup>4</sup> In determining whether to dismiss an action on one of these grounds, the court

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<sup>1</sup> ECF No. 4.

20 <sup>2</sup> ECF No. 3 at 2.

21 <sup>3</sup> *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474  
U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

22 <sup>4</sup> *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with  
23 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to  
comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–  
41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to  
keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.

1 must consider: (1) the public's interest in expeditious resolution of litigation; (2) the court's need  
2 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
3 disposition of cases on their merits; and (5) the availability of less drastic alternatives.<sup>5</sup>

4 The first two factors, the public's interest in expeditiously resolving this litigation and the  
5 court's interest in managing its docket, weigh in favor of dismissal. The third factor, risk of  
6 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises  
7 from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
8 prosecuting an action.<sup>6</sup> A court's warning to a party that its failure to obey the court's order will  
9 result in dismissal satisfies the fifth factor's "consideration of alternatives" requirement,<sup>7</sup> and  
10 that warning was given here.<sup>8</sup> The fourth factor—the public policy favoring disposition of cases  
11 on their merits—is greatly outweighed by the factors favoring dismissal.

12 Accordingly, IT IS HEREBY ORDERED that the magistrate judge's report and  
13 recommendation [ECF No. 4] is **ADOPTED** in full;

14 IT IS FURTHER ORDERED THAT **this case is dismissed**. The Clerk of Court is  
15 directed to ENTER JUDGMENT ACCORDINGLY and CLOSE THIS CASE.

16 Dated: March 2, 2020

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U.S. District Judge Jennifer A. Dorsey

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1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

20 <sup>5</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
21 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

22 <sup>6</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

23 <sup>7</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

<sup>8</sup> ECF No. 3.